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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/899,270	07/06/2001	Edward M. Maslowski	43795-00307	3916

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EXAMINER

ELOSHWAY, NIKI MARINA

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 12/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/899,270

Applicant(s)

MASLOWSKI, EDWARD M.

Examiner

Niki M. Eloshway

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Bordner et al. (U.S. 5,947,320). Bordner et al. teach a reusable plastic drum 10, having a plastic drum body 12, a lid 16 and a lockband 40. The drum body 12 has a convex upper chime at 54. The lid 16 has a channel at 60 which receives the upper chime. The lid of Bordner et al. also comprises element 78.
3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Godinho (U.S. 4,744,486). Godinho teaches a plastic drum body at 1 with a convex upper chime 2. The plastic lid 3 has an inner wall and outer wall which form a channel 5. The lockband is element 6.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bordner et al. in view of Cramer et al. (U.S. 5,573,118). Bordner et al. disclose the claimed invention except for the drum body and lid being made of polypropylene. Cramer et al. teach that it is known to provide a drum body and lid made of polypropylene (see col. 4 lines 26-31). It would have been obvious to one having ordinary

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skill in the art at the time the invention was made to provide the drum of Bordner et al. with the drum body and lid being made of polypropylene, as taught by Cramer et al., in order to give the drum the strength and rigidity characteristic of polypropylene.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bordner et al. Bordner et al. disclose the claimed invention except for the width of the chime being 0.190 inch. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the drum of Bordner et al. with the chime having a width of 0.190 inch, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Godinho in view of Hammes (U.S. 4,347,947). Godinho discloses the claimed invention except for the gasket. Hammes teaches that it is known to provide a container with a gasket (see element 10). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Godinho with the gasket of Hammes, in order to better seal the contents of the container within the container.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Godinho in view of Cramer et al. (U.S. 5,573,118). Godinho discloses the claimed invention except for the drum body and lid being made of polypropylene. Cramer et al. teach that it is known to provide a drum body and lid made of polypropylene (see col. 4 lines 26-31). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the drum of Godinho with the drum body and lid being made of polypropylene, as taught by Cramer et al., in order to give the drum the strength and rigidity characteristic of polypropylene.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Godinho. Godinho discloses the claimed invention except for the width of the chime being 0.190 inch. It would have been

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obvious to one having ordinary skill in the art at the time the invention was made to provide the drum of Godinho with the chime having a width of 0.190 inch, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

### ***Response to Arguments***

10. Applicant's arguments filed October 4, 2002 have been fully considered but they are not persuasive. Applicant argues that Bordner et al. does not teach that the cavity and chime do not fully engage to form a sealing relationship. It is the examiner's position that the lid may comprise both elements 16 and 78. When the concave base surface of the lid includes element 78, the chime fully engages the concave base surface because it fully engages element 78.

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

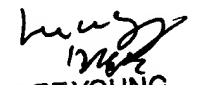
12. In order to reduce pendency and avoid potential delays, Group 3720 is encouraging FAXing of responses to Office Actions directly into the Group at (703)305-3579. This practice may be used for

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filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into group 3720 will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is (703) 308-1606. The examiner is in the office on Tuesdays and Fridays. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Customer Service Office at (703) 306-5648.

  
Niki M. Eloshway/nme  
Patent Examiner  
December 15, 2002

  
LEE YOUNG  
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